



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 15, 1992

Ms. Mary Kay Fischer
Assistant City Attorney
City of Galveston
P. O. Box 779
Galveston, Texas 77553-0779

OR92-215

Dear Ms. Fischer:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 15535.

You have received a request for information relating to requests for proposal currently pending before the Galveston City Council. Specifically, the requestor seeks "a copy of the RFP's [sic] relating to Galveston EMS." You claim that Sections 3(a)(1) and 3(a)(4) of the Open Records Act except the requested information from required public disclosure.

Section 3(a)(4) excepts from required public disclosure "information which, if released, would give advantage to competitors or bidders." The purpose of section 3(a)(4) is to protect governmental interests in commercial transactions. Open Records Decision No. 593 (1991) at 2. Section 3(a)(4) applies primarily to competition for governmental contracts and specifically protects the sealed bid process. Decisions under section 3(a)(4) generally involve specific commercial and contractual matters. Open Records Decision No. 463 (1987). It has been applied most often to competitive bidding situations prior to the award of a contract. See Open Records Decision Nos. 541 (1990) at 4-5; 331 (1982); 232 (1979) at 4; 75 (1975).

You advise us that the City of Galveston presently is reviewing requests for proposal and that a contract has not yet been awarded. You contend that release of

the requested information would harm the city's purchasing interests in this competitive situation. We agree. Accordingly, the requested information may be withheld from required public disclosure under section 3(a)(4) of the Open Records Act. As we resolve this matter under section 3(a)(4), we need not address the applicability of section 3(a)(1) at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR92-215.

Yours very truly,



Kym Oltrogge
Assistant Attorney General
Opinion Committee

KKO/GK/mc

Ref.: ID# 15535

cc: Ms. Sharon Atwell
7722 Channelview Drive
Galveston, Texas 77554
(w/o enclosures)